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**Traffic Regulation
and
Law Enforcement
on the
National Forest
Development Road System**

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Traffic Regulation and Law Enforcement on the National Forest Development Road System

A large network of Forest Development Roads is being developed and operated by the Forest Service, U.S. Department of Agriculture, for the protection, administration, and utilization of the 154 National Forests.

This network is the main link between the forest resources and the communities that depend on these resources. The network also provides access for millions of people who use the recreation facilities on the National Forests.

In recent years, the use of this system of Forest Service roads has increased substantially. As a result, the important, unique relation between (1) the Forest Development Road System and (2) the town, county, and State highway systems has been highlighted.

The Forest Service seeks the applicability of State traffic codes to all forest development roads, and State and local accident investigation, patrol, and prosecution of offenses as applied to comparable public roads.

The Forest Service will limit its exercise of rulemaking authority to lessen the problems of the State and local authorities in applying State traffic codes.

The following questions and answers should improve understanding of the preceding statement and objectives and should enhance productive cooperation between the Forest Service and the towns, counties, and States in traffic management.

1. What are Forest Development Roads?

Answer: Congress has authorized a system of Forest Development Roads for managing the National Forests and for the use and development of

the resources upon which nearby communities depend. These roads are needed in addition to the system of State, county, and town roads which provide the major access routes to and through the National Forests.

2. How are these roads constructed?

Answer: Forest Development Roads are constructed:

(a) By using Forest Service funds appropriated by Congress from the General Treasury.

(b) By purchasers of National Forest timber when roads are needed to remove the timber. (The purchasers are allowed credit against the value of the timber for the cost of road construction. In other words, public timber, instead of public funds, pays for the roads.)

(c) By cooperative construction with private landowners of a single road system serving all owners in a tributary area. The Forest Service share is contributed on the basis of (a) and/or (b).

(d) By a combination of these three methods.

3. How are these roads maintained?

Answer: These roads are maintained:

(a) By the Forest Service with funds appropriated by Congress from the General Treasury.

(b) By purchasers of National Forest timber and other commercial haulers who are required to maintain roads or to bear the cost of maintenance commensurate with their use.

(c) By private owners of lands or resources who have cooperated in constructing the road and who are obligated to bear maintenance costs commensurate with their use.

(d) By county and other road authorities that have entered into agreements with the Forest Service to share maintenance responsibility on specified roads.

4. What does "jurisdiction" mean, and who has jurisdiction over Forest Development Roads?

Answer: Jurisdiction means the authority to control or regulate the use of a road. When applicable, State laws apply to the extent they are not in conflict with Federal laws, rules, and regulations. The Forest Service, by reason of Federal ownership, and the applicability of Federal law derived from such

ownership, has the authority to control or regulate the use of all roads on National Forest lands except the following which are subject to State jurisdiction:

(a) Those roads constructed under the Act of July 26, 1866 (14 Stat. 253, 43 U.S.C. 932), on public domain lands prior to establishment of the National Forest.

(b) Those roads that were established on acquired lands before title to the land passed to the United States.

(c) Those roads where rights-of-way have been granted to the States or to road authorities by the Bureau of Public Roads, U.S. Department of Transportation.

(d) Those roads where rights-of-way have been granted to the States or road authorities by the Forest Service.

This authority of the Forest Service will be exercised as described in these questions and answers.

5. What is meant by the phrases "when applicable," "where applicable," and "if applicable," when used to characterize the State laws?

Answer: The phrases mean when, where, or if applicable to Forest Development Roads by virtue of the law of the particular State. The State traffic laws may not apply to Forest Development Roads by virtue of the language of the laws, by interpretation of officials charged with execution of State laws, and by rulings of appropriate courts.

6. Do the States lose their jurisdiction over persons using forest roads on National Forest Lands?

Answer: No. Except for punishment of offenses against the United States, State civil and criminal jurisdiction over persons is not affected by the existence of National Forest lands. Therefore, State traffic laws can be—and generally are—applicable to users of Forest Development Roads. For example, assume State law provides that no person shall drive a vehicle on a highway at a speed greater than is reasonable under existing conditions. If Forest Development Roads are considered highways, within the meaning of State law, anyone violating this law on a Forest Development Road would be violating the State law and could be prosecuted in the State courts.

7. Most State vehicle codes regulate highway use. Are the terms "highway" and "Forest Development Roads" synonymous?

Answer: The Uniform Vehicle Code (UVCA—1967), published by the National Committee on Uniform Traffic Laws and Ordinances, defines a "highway" as—"The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel."

Forest Development Roads are maintained entirely or partly with public funds and are open to the public.¹ The Forest Service considers these roads as highways for purposes of establishing and enforcing rules of the road. *The Forest Service objective is that State traffic laws and local traffic ordinances be applicable.*

8. The answer to Question 4 states the Forest Service has control over the use of most Forest Development Roads. The answers to Questions 6 and 7 imply the States have the authority to control use on Forest Development Roads. Do these answers conflict?

Answer: No. The control of use that the Forest Service exercises is for such purposes as requiring timber purchasers (in timber sale contracts) and commercial haulers (in special rules of use) to bear a proportionate share of the maintenance.

The Forest Service wants application and enforcement of the traffic code by the States on Forest Development Roads.

9. Who should investigate motor vehicle accidents on Forest Development Roads?

Answer: It is desirable that all motor vehicle accidents on Forest Development Roads be investigated by State or local police officers.

Accidents involving Forest Service employees will also be investigated by the Forest Service for administrative reasons.

¹ Occasionally the Forest Service must close a Forest Development Road to public use to protect a resource (such as timber during extreme fire danger) or to protect the road from damage, or for other administrative reasons.

10. Will the Forest Service need "feedback data" from accident investigations and determinations made by the States?

Answer: Yes. The Forest Service will need this data to program spot improvements and to modify design standards where accident "feedback data" indicates deficiencies.

11. If State traffic laws apply to Forest Development Roads, who is responsible for determining the need for signs?

Answer: The Forest Service, in consultation with the States, will determine the need for, and will provide for, signs for the safety and regulation of traffic. The Forest Service will finance and install these signs. Direction and information needs will be determined by the Forest Service. Financing and installation to meet these needs will also be provided by the Service.

12. What type of signs and marking will be required on Forest Development Roads to provide guidance and to insure adequate traffic regulation?

Answer: Signs have three general purposes: To control traffic, give direction, and provide information. Guides are being prepared for traffic control signs that essentially conform to national standards. Guides are also being prepared for esthetic and "rustic" signs in the other two categories.

13. Who should patrol Forest Development Roads for speeding and other traffic rule violations?

Answer: Where State traffic laws apply to Forest Development Roads, patrolling for enforcement of these laws should be by the appropriate State or local government authorities, and to the same extent this is done on comparable State and local roads.

14. Doesn't the Forest Service sometimes establish "special rules" on Forest Development Roads?

Answer: Yes. Special rules are sometimes established on certain roads to accomplish particular purposes not provided by the State traffic laws.

For example, on some Forest Development Roads, it is sometimes necessary to regulate use to facilitate movement of large volumes of timber and still provide safety for all traffic. This can be done

by assigning certain time periods to timber traffic and other time periods to recreation traffic. Another special rule is one requiring commercial haulers of nonfederal products to obtain a permit for hauling. Another example is when a private landowner has jointly developed a road system with the Forest Service, and the landowner has an ownership right to use larger vehicles or to haul heavier loads than are normally permitted on State highways.

15. Who can establish special rules of use on a Forest Development Road?

Answer: Regional Foresters have the authority to designate Forest Development Roads as "special service roads" for establishing special rules of use.

16. What procedure does a Regional Forester use to establish a Forest Development Road as a special service road?

Answer: A sign designating a road as "Special Service" is posted at the entrance to the road. Special rules for use of the road are listed on the sign.

A list of roads designated as special service roads and the applicable rules are also available to the public at Forest Supervisor offices and District Ranger offices.

17. If a Forest Development Road has been designated a special service road, does this mean that State laws no longer apply to that road?

Answer: No. State traffic laws, if applicable to Forest Development Roads, are also applicable to such roads if they are designated "Special Service." The Secretary's Regulations (36 CFR 212.7) (a) (2) state: "Traffic on special service roads is subject to State traffic laws where applicable, except to the extent the Chief deems it necessary to prescribe rules in addition thereto or in conflict therewith to accomplish the purposes of these regulations . . ." Rules prescribed by the Forest Service on special service roads are the responsibility of the Forest Service to enforce. Generally, such rules will supplement State traffic rules, will be directed to commercial haulers; and will be designed to obtain the participation of such haulers in maintaining the road or in bearing a share of its construction cost.

Except for the special rules that are in conflict with State traffic rules, State laws are not affected, and apply to Forest Development Roads designated

as special service roads, as well as to roads not designated as such.

18. Isn't it confusing having two government agencies administering "rules of the road" on Forest Development Roads?

Answer: Usually a Forest Development Road designated "Special Service" will have only one or two special rules to be enforced by the Forest Service. Generally, such special rules will be in addition to State traffic laws and will not conflict with them. They are for purposes unrelated to those served by the State traffic laws, and State traffic laws will not be affected by the special rules.

If a special rule conflicts with the State law, public use or State enforcement should not be otherwise affected. An example of a conflicting special rule would be one imposing a less restrictive weight limit than is provided by the State law. The enforcement of the higher limit would be the responsibility of the Forest Service and would not require any action by State or local enforcement agencies.

Where a special rule conflicts with the State traffic law in a way that could conceivably affect the enforcement of State rules, the Forest Service intends to consult with State and/or local officials before imposing the rule so that its impact should be understood and so traffic regulation problems and solutions can be anticipated.

19. Why doesn't the Forest Service provide it's own police force to regulate traffic on the National Forest Development Road System?

Answer: There are a number of reasons why Federal regulation of traffic on Forest Development Roads is neither practicable nor desirable. Some of the more important reasons are:

(a) The Act of June 4, 1897 (30 Stat. 36 U.S.C. 480), which provided for administration of the National Forests, provided that legislative jurisdiction within the National Forests would remain with the States. The Federal Government does have the right to make rules pertaining to the use of its land and other property. However, it would be contrary to the intent of the Act to substitute Federal rules for State laws that are applicable or can be made applicable to the roads in the National Forests.

(b) Forest Development Roads are extensions of State and local highway systems. So far as the public is aware, the State traffic code does apply to all roads on which it travels. As far as the public is concerned, these are the rules it follows. It expects enforcement action and accident investigation by State and local police. The public expects traffic offenses will be prosecuted, and litigation arising from accidents will be heard in State courts. Nothing is to be gained, and a great deal would be lost, if the traveling public had to be educated to dual systems.

(c) The State and local governments already have a body of traffic laws and regulations. They have police and courts that enforce these laws, and the State and local courts are experienced in handling litigations involving these laws. It would be inefficient and would waste public money if this system were duplicated with a body of Federal rules and enforcement machinery applicable to only a part of the roads that the public uses.

(d) A separate body of Federal rules for Forest Development Roads would require enforcement by Federal authorities, and violations would have to be tried before Federal Commissioners (Magistrates) or in Federal courts.

20. The questions and answers above cover situations where States have determined that their laws apply to Forest Development Roads. What happens when State officials determine that their laws do not apply on these roads?

Answer: The Forest Service will cooperate fully with State officials to make State laws applicable to Forest Development Roads.

In the event that State officials determine that State laws are not applicable to Forest Development Roads and legislative attempts to make them applicable are not successful, the Forest Service would be required to establish and enforce "Rules of the Road," under special service procedures.

21. The National Park Service, Department of the Interior, provides its own police force to control and regulate traffic in the National Parks. How is this possible?

Answer: Law enforcement, including control and regulation of traffic, has always been exercised by

the National Park Service in the National Parks. In several of the parks the Federal Government has exclusive legislative jurisdiction. That is, the State has ceded its authority over the land to the Federal Government. With minor exceptions, there are no reservations of jurisdiction made by the State. In this case the National Park Service must provide police services because the State has no authority to do so. In other National Parks the Federal Government has partial or proprietorial jurisdiction. However, in all cases, regardless of the type of jurisdiction, specific authority exists for the National Park Service to establish rules and regulations to govern the land areas under its management and to attach penalties for the breach of such rules and regulations. For the convenience of the public, the National Park Service has adopted the laws and regulations of the State within whose boundaries a park area or portion of a park area is located to govern traffic and the operation and use of vehicles. This is helpful to the public in the sense that the rules of the road are the same both in and out of the park in the same State. The Park Service has ample authority to make special traffic rules for special circumstances.

Direct inquiries regarding Traffic Regulation and Law Enforcement on the National Forest Development Road System to any of the following Offices:

(REGIONAL OFFICES)

- R-1 Forest Service, USDA
Federal Building (Northern Region)
Missoula, Mont. 59801
- R-2 Forest Service, USDA
Federal Center
Building 85
Denver, Colo. 80225
- R-3 Forest Service, USDA
517 Gold Avenue SW
Albuquerque, N. Mex. 87101
- R-4 Forest Service, USDA
324 25th Street
Ogden, Utah 84401
- R-5 Forest Service
630 Sansome Street
San Francisco, Calif. 94111

(REGIONAL OFFICES—Continued)

R-6 Forest Service, USDA
319 SW. Pine Street
P.O. Box 3623
Portland, Oreg. 97208

R-8 Forest Service, USDA
50 Seventh Street NE
Atlanta, Ga. 30323

R-9 Forest Service, USDA
633 West Wisconsin Ave.
Milwaukee, Wis. 53203

R-10 Forest Service, USDA
Federal Office Building
P.O. Box 1628
Juneau, Alaska 99801

or

WO Division of Engineering
Forest Service, USDA
Department of Agriculture
Washington, D.C. 20250

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